IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7070 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 No

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MEHTANI CHITOSAN PVT. LTD.

Versus

RAJAK NOORMOHAMAD JIKANI

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Appearance:

1. Special Civil Application No. 7070 of 2001

PS GOGIA for Petitioner No. 1

MR MD RANA for Respondents No. 1-7

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CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 13/03/2002

ORAL JUDGEMENT

1. Heard the learned counsel Mr.P.S.Gogia for the petitioner and Mr.M.D.Rana for the respondents. By the impugned interim order dated 23.5.2001 in the so-called

Industrial Dispute Complaint No.50 of 1999 made by the learned Labour Court, Junagadh, the earlier ex-parte ad-interim mandatory relief is confirmed. The Labour Court has assumed jurisdiction under Section 33-A of the Industrial Disputes Act, 1947 (`the Act' for short) on the basis of pendency of the recovery applications. There was no dispute about the aforesaid facts and the legal position that pendency of proceedings under Section 33-C of the Act for recovery of any dues are not the pending proceedings contemplated in Section 33 of the Act. Therefore, obviously, the entertainment of the applications under Section 33 of the Act and the impugned order were without jurisdiction. Therefore, the petition is allowed and the aforesaid impugned order is set aside. Rule is made absolute with no order as to costs.

Sd/-

( D.H.Waghela, J.)

(KMG Thilake)